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SERVICE DATE - DECEMBER 4, 2003

The decision will be included in the bound volumes of the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 537 (Sub-No. 1)

PUBLIC PARTICIPATION IN RAILROAD ABANDONMENT PROCEEDINGS

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is amending its regulations concerning the service of a notice of intent to abandon or discontinue rail service by removing an obsolete reference to a labor organization and making technical changes.

EFFECTIVE DATE: This rule is effective January 3, 2004.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1661. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: On September 2, 2003 at 68 FR 52168, the Board published a notice of proposed rulemaking (NPR) in this proceeding seeking comments on the Board's proposed removal of an obsolete reference and technical changes.¹ As noted in the NPR, the regulations at 49 CFR 1152.20(a)(2) provide that applicants seeking to abandon or discontinue rail service must serve their notices of intent on certain interested parties, including, under section 1152.20(a)(2)(xi), "[t]he headquarters of the Railroad Labor Executives' Association" (RLEA). Because it was the Board's understanding that RLEA no longer existed, it was proposed that section 1152.20(a)(2)(xi) be removed. The NPR noted that the regulations still provide labor interests with notice of proposed abandonments or discontinuances, because current section 1152.20(a)(2)(xiii) requires service on "[t]he headquarters of all duly certified labor organizations that represent employees on the affected rail line."²

¹ Comment was also sought on the certification that the proposed rule would not have a significant impact on a substantial number of small entities.

² Similar language for giving notice to labor representatives is found at sections 1121.4(h),
(continued...)

The NPR also indicated that paragraph 1152.20(a)(2)(xiii) contains language that should be moved for clarity: “For the purposes of this subsection ‘directly affected states’ are those in which any part of the line sought to be abandoned is located.” This language would be more appropriate in section 1152.20(a)(2)(ii), and the Board proposed to move the substance of that language there. Finally, NPR proposed to redesignate sections 1152.20(a)(2)(xii) and (xiii) as sections 1152.20(a)(2)(xi) and (xii), respectively.

No comments were filed in response to the NPR. Accordingly, the obsolete reference will be removed and the technical changes will be made.

The Board certifies that the proposed rule will not have a significant impact on a substantial number of small entities. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, and Uniform System of Accounts.

Decided: November 24, 2003.

By the Board, Chairman Nober.

Vernon A. Williams
Secretary

²(...continued)
1150.32(e), 1150.35(c)(3), 1150.42(e), 1150.45(c)(3) and 1151.2(a)(6) concerning acquisition or operation of rail lines or feeder line applications.

APPENDIX

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1152, of title 49, chapter X, of the Code of Federal Regulations as follows:

Part 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. The authority citation for Part 1152 continues to read as follows:

AUTHORITY: 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, 10903-10905, and 11161.

2. §1152.20 is amended by removing paragraph (a)(2)(xi) and redesignating paragraphs (a)(2)(xii) and (xiii) as paragraphs 1152.20(a)(2)(xi) and (xii), respectively.

3. Revise §1152.20(a)(2)(ii) and newly redesignated §1152.20(a)(2)(xii) to read as follows:

§1152.20 Notice of intent to abandon or discontinue service.

(a) * * * * *

(2) * * *

(ii) The Governor (by certified mail) of each state directly affected by the abandonment or discontinuance. (For the purposes of this section “states directly affected” are those in which any part of the line sought to be abandoned is located);

* * * * *

(xii) The headquarters of all duly certified labor organizations that represent employees on the affected rail line.

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